



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8900

FEB 26 2015

UNITED PARCEL SERVICE

Deborah S. McKitten
Plant Manager
DuPont Chemicals & Fluoroproducts
~~2571 Fite Road~~
Memphis, Tennessee 38127

Dear Ms. McKitten:

The purpose of this letter is to request information as part of a U.S. Environmental Protection Agency investigation to determine the compliance status of the DuPont Chemicals & Fluoroproducts (DuPont) plant located in Memphis, Tennessee, with the Clean Air Act (CAA), 42 U.S.C. § 7401, *et seq.*, specifically with the wastewater requirements of 40 C.F.R. Part 63, Subpart FFFF [National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing] for wastewater streams. Section 114(a) of the CAA, 42 U.S.C. § 7414(a), authorizes the Administrator of EPA to require any person who owns or operates an emission source, whom the Administrator believes may have information necessary for the purposes of Section 114(a), or who is subject to any requirement of the CAA, to provide such information as the Administrator may reasonably require for the purpose of carrying out any provision of the CAA. This authority has been duly delegated to the Director of the Air, Pesticides, and Toxics Management Division Region 4.

Therefore, pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), as amended, you are hereby required to respond to the Information Request enclosed herein as Enclosure B. The response to the information requested must be accompanied by the enclosed Statement of Certification (Enclosure C), which is to be signed by a responsible official of DuPont. Submit your response within thirty (30) days of receipt of this letter to the following:

Air Enforcement & Toxics Branch
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Attn: Sydnee Adams

Failure to provide the information required may result in the issuance of an Order requiring compliance with the requirements contained herein, or the initiation of a civil action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. This may include civil and/or administrative penalties of up to \$37,500 per day of noncompliance, pursuant to Sections 113(b) and (d) of the CAA, 42 U.S.C. § 7413(b) and (d).

Under 40 C.F.R. Part 2, Subpart B, you may assert a business confidentiality claim covering part or all of the information you submit, other than emissions data and information or data that is otherwise publicly available, as described in 40 CFR §§ 2.203(b); 2.301(a) and 2.301(e). The page, paragraph, and sentence must be identified for any information subject to a claim of business confidentiality.

Requirements for asserting a claim of business confidentiality are described in Section A of Enclosure A. If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice.

If a business confidentiality claim accompanies the information when it is received by the EPA, Section B of Enclosure A describes the confidential business information substantiation requirements you will be asked to comply with in the event that the EPA receives a Freedom of Information Act request or otherwise wants to determine whether such information is entitled confidential treatment. ~~See 40 C.F.R. § 2.204. In those instances, you will be given an opportunity to submit comments on your~~ claim by responding to 11 questions in Section B of Enclosure A. ~~See 40 C.F.R. § 2.204(e)(4).~~ Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. Failure to submit your comments by the deadline in the letter will be regarded as a waiver of your confidentiality claim, and the EPA may release the information.

This Information Request is not subject to the approval requirement of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

If you have questions regarding this Information Request, please contact Ms. Sydnee Adams at (404) 562-9196.

Sincerely,



Beverly H. Banister
Director

Air, Pesticides and Toxics Management Division

Enclosures

cc: Robert Rogers (w/enclosures)
Technical Manager
Shelby County Pollution Control

ENCLOSURE A

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information you submit, other than emissions data and information or data that is otherwise publicly available, as described in 40 CFR 2.203(b). If no business confidentiality claim accompanies the information when it is received by EPA, ~~EPA may make the information available to the public without further notice.~~ To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Clean Air Act (the Act), and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as "Personal Privacy Information" given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information.

EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any

information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in EPA's determination:

- 1) For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
- 2) Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
- 3) What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
- 4) Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
- 5) Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
- 6) Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
- 7) For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
- 8) Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
- 9) Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
- 10) If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
- 11) Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of

emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE B

Request to Provide Information

For purposes of this information request, the definitions set forth in Section B shall apply and should be considered carefully by you in preparing your responses.

A. INSTRUCTIONS:

- 1) Please provide a separate narrative response to each question and subpart of a question set forth in this Information Request and precede each answer with the number of the question to which it corresponds.
- 2) If requested information or documents are not known or are not available to you at the time of your response to this Information Request, but later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts; you must provide the EPA with a corrected response as soon as possible.
- 3) Requested information can be submitted in electronic form if applicable.
- 4) Where specific information has not been memorialized in a document, but is nonetheless responsive to a Request, you must respond to the Request with a written response.
- 5) The information requested herein must be provided even though DuPont may contend that it includes possible confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 114(c) of the CAA, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in the statute and regulation identified above. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
- 6) If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.
- 7) If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

B. DEFINITIONS:

- 1) The term "you", "DuPont Chemicals & Fluoroproducts" or "DuPont" shall include DuPont Chemicals & Fluoroproducts, its parent corporation(s) and subsidiaries, the addressees of this Request, and the officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents of the above corporations.
- 2) "Facility" means the plant (including all physical structures) owned and/or operated by DuPont, located at 2571 Fite Road, Memphis, Tennessee.
- 3) The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
- 4) The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
- 5) The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee(s) and/or recipient, and the substance or the subject matter.
- 6) The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
- 7) The term "document" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, inter-office or intra-office communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc or disc pack, tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use punch card, disc, disc pack, tape or the type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure, notation, annotation, or the like on it, drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
- 8) The term "closed-vent system" is defined in 40 CFR § 63.161.
- 9) The term "closed-loop system" is defined in 40 CFR § 63.161.
- 10) The term "Group 1 wastewater stream" is defined in 40 CFR § 63.2550.
- 11) The term "Group 2 wastewater stream" is defined in 40 CFR § 63.2550.

- 12) The term "miscellaneous organic chemical manufacturing process unit (MCPU)" is defined in 40 CFR § 63.2550.
- 13) The term "point of determination" is defined in 40 CFR § 63.2550.
- 14) The term "wastewater" is defined in 40 CFR § 63.2550.
- 15) The term "wastewater stream" is defined in 40 CFR § 63.2550.
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- 16) The term "vent stream" is defined in 40 CFR § 63.111.
- 17) All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Air Act, in which case the statutory definitions shall apply.

INFORMATION REQUEST

You are hereby required, in accordance with Section 114(a) of the Act, 42 U.S.C. § 7414(a), to provide the following information for DuPont in Memphis, Tennessee.

- 1) For all of the facility operations, identify with specificity each and every process at the DuPont facility. Each process should be clearly identified by the name of the process and/or a unique identification number.
- ~~2) For each process, provide a process flow diagram and a piping and instrumentation diagram (P&ID)~~ which shows each wastewater stream, liquid stream, and vent stream for each piece of equipment, and this should include, but not be limited to, knock-out pots, liquid ring vacuum pumps, etc. The diagram should illustrate the origin and complete path of each and every wastewater stream, liquid stream, and vent stream with regard to each piece of equipment. Each stream should be clearly identified by the name of the stream and/or a unique identification number of the stream.
- 3) For each process identified, provide a complete list of the specific hazardous air pollutants addressed by Section 112 of the Clean Air Act that are associated with each process.
- 4) For each and every process at DuPont, identify with specificity which processes are subject to the provisions of 40 CFR Part 63 Subpart FFFF as well as those which are not subject. For those processes which are not subject to the provisions of 40 CFR Part 63 Subpart FFFF, provide the documentation which clearly demonstrates why those processes are not subject.
- 5) For all of the facility operations, identify with specificity each and every miscellaneous organic chemical processing unit (MCPU) at the DuPont facility and identify the process with which it is associated. Each MCPU should be clearly identified by the name of the MCPU and/or a unique identification number.
- 6) Provide a complete list of the specific hazardous air pollutants addressed by Section 112 of the Clean Air Act that are associated with each MCPU and each stream.
- 7) For each and every MCPU at DuPont, identify with specificity which MCPU's are subject to the provisions of 40 CFR Part 63 Subpart FFFF as well as those which are not subject. Also, identify each piece of equipment that is part of each MCPU. For the MCPU's which are not subject to the provisions of 40 CFR Part 63 Subpart FFFF, provide the documentation which clearly demonstrates why those MCPU's are not subject.
- 8) For each MCPU at the DuPont facility which is subject to the provisions of 40 CFR Part 63 Subpart FFFF, provide a detailed process flow diagram. The diagram must identify with specificity each and every piece of equipment in the MCPU, and each and every inlet and outlet stream associated with each piece of equipment. The diagram should also differentiate between liquid streams and vent streams, and must identify each and every wastewater stream, and liquid stream in open systems. Each stream should be clearly identified by the name of the stream and/or a unique identification number of the stream by MCPU. Include with this response, the date of construction and commencement date of each MCPU and its associated ancillary equipment.
- 9) For each wastewater stream and liquid stream identified in item 8 above, clearly specify which streams are subject to the provisions of 40 CFR § 63.2485(a) through (o) and the requirements of

Table 7 of Subpart FFFF as well as those which are not subject. For those wastewater streams and liquid streams which are not subject to the provisions of 40 CFR § 63.2485(a) through (o) and the requirements of Table 7 of Subpart FFFF, provide the documentation which clearly demonstrates why those streams are not subject.

- 10) For each wastewater stream and liquid stream identified in item 9 above, provide complete documentation, including applicable dates (e.g. initial compliance date, date that DuPont became subject to this rule), diagrams, calculations, and compliance demonstration verification data as well as sampling and analytical results and testing methodologies, which clearly demonstrates the ~~compliance or non-compliance of each stream and how it was determined with regard to the~~ provisions of 40 CFR § 63.2485(a) through (o) and the requirements of Table 7 of Subpart FFFF and the provisions of 40 CFR Part 63 Subparts F and G as applicable. In other words, clearly specify by regulatory citation from 40 CFR § 63.2485(a) through (o) and Table 7 of Subpart FFFF and from 40 CFR Part 63 Subparts F and G each provision of these regulations for which each stream is demonstrating compliance. For those situations where the applicable regulations offer compliance options and/or control options, identify which compliance and/or control option was selected for each Group 1 stream and which standard(s) is being met and match that information to the above requested compliance demonstration verification data. As a part of this documentation, clearly identify which streams are classified as Group 1 and which streams are classified as Group 2.
- 11) For each wastewater stream and liquid stream identified in item 10 above, please provide the documentation which DuPont has historically relied upon and currently relies upon to verify and justify why and how the streams are classified as either Group 1 or Group 2. This information should include when these classifications were made. With regard to any streams which have previously been classified as Group 2 streams, please identify all process changes that were made which would have called for a re-determination of group status as described in 40 CFR § 63.132(c)(3) and 63.132(d)(3). Such process changes would include, but not be limited to, changes in production capacity, production rate, feedstock type, or whenever there is a replacement, removal, or addition of recovery or control equipment. Also, provide the re-determination documentation. In addition, please identify all process changes that were made which would not have called for a re-determination of group status.
- 12) For each Group 2 wastewater stream and liquid stream identified in item 10 above or any other wastewater stream or liquid stream that may be excluded from Subpart FFFF, please provide any sampling and analytical data that has been collected by DuPont in the last five years, as available.
- 13) For each wastewater stream and liquid stream identified in item 8 above and not also identified in item 9 above, clearly specify and provide the reasons and documentation supporting why those streams are not subject to any of the provisions of 40 Part CFR 63.2485.
- 14) For each and every wastewater stream and liquid stream identified in item 9 above, provide a detailed discussion of how the company is treating each and every wastewater stream and liquid stream.
- 15) For each wastewater treatment system, provide a detailed discussion of how the wastewater treatment system operates. This should include a treatment system diagram, a list of all inlet streams to the treatment system, a list of outlet streams from the treatment system, a description on how the company monitors the treatment system to ensure it is operating properly, a complete copy of the treatment system test plan, and a complete copy, including attachments, of the initial compliance demonstration report.

- 16) As defined and regulated in 40 CFR Part 63 Subpart G, provide a complete list, by name and/or unique identification number, of the wastewater tanks, surface impoundments, containers, individual drain systems, and oil-water separators contained within each process. Also, clearly show where it appears within each MCPU on the P&ID requested in item 2 above.
 - 17) For each process and for each MCPU, provide the date that each one began operation.
 - 18) Provide a copy of the Notice of Compliance Status Report that has been prepared and submitted by DuPont pursuant to 40 CFR § 63.2520(d).
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ENCLOSURE C

This is to be signed and dated by a duly authorized official of DuPont Chemicals & Fluoroproducts.

STATEMENT OF CERTIFICATION

I hereby certify that the foregoing responses and information provided to the EPA in response to its Clean Air Act, Section 114, Information Request were prepared under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information or that I consulted with individuals having personal knowledge (note, please identify such individuals). I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Signature and Date

Printed Name and Title